

REMARKS

Claims 1-123 were filed and are pending. Claims 1-20, 22-25, 27-33 and 35-123 were rejected under 35 U.S.C. § 102. Claims 21, 26 and 34 were rejected under 35 U.S.C. § 103. Reconsideration and allowance of Claims 1-123 is requested.

Rejection of Claims under 35 U.S.C. § 102

In the Office Action, Claims 1-20, 22-25, 27-33 and 35-123 were rejected under 35 U.S.C. § 102 as being anticipated by Kenner et al. (U.S. Patent No. 5,956,716).

Regarding Claim 1, the Office Action stated:

Kenner teaches apparatus for effecting the provision of content over a network, comprising:

means for receiving a request from a client for specified content (= requesting and retrieving video clips by the user at the user multimedia terminal) [see Abstract and Col. 4, Lines 43-64];

means for communicating to the client the identity of a node server having the specified content stored thereon, thereby enabling the client to request transmission of the specified content from the node server (= communicating between the web server and the user terminal for transmitting web page and video clips to the user terminal) [see Fig. 4 and Col. 22, Line 63 to Col. 23, Line 49]; and

means for ascertaining that the node server transmitted the specified content to the client (= locating audio/video content on servers to transmit to the users) [see Col. 5, Lines 16-64], wherein an owner of the node server is offered an incentive as compensation for transmission of the specified content to the client (= placing advertisements and promotions) [see Col. 4, Lines 7-34 and Col. 19, Lines 8-37].

Claim 1 recites (emphasis added):

Apparatus for effecting the provision of content over a network, comprising:
 means for receiving a request from a client for specified content;
means for communicating to the client the identity of a node server having the specified content stored thereon, thereby enabling the client to request transmission of the specified content from the node server; and
 means for ascertaining that the node server transmitted the specified content to the client, wherein an owner of the node server is offered an incentive as compensation for transmission of the specified content to the client.

Kenner et al. teach a video clip storage and retrieval system (column 4, lines 37-38 of the Kenner et al. patent). Kenner et al. teach that "[t]he video clip retrieval system is a distributed computer system or network whereby video clips and text information, stored locally and at a remote location, can be requested and viewed at a user's multimedia terminal" (column 4, lines 43-46 of the Kenner et al. patent). Kenner et al. further teach, at column 7, lines 14-35 of the Kenner et al. patent (emphasis added):

FIG. 1 illustrates a preferred embodiment of the video clip storage and retrieval system, showing its structural hierarchy and the various modules which comprise the system. As shown, the system comprises one or more user terminals 14, a local storage and retrieval unit ("local SRU") 18, a data sequencing interface (DSI) 30, one or more extended storage and retrieval units ("extended SRUs") 26, and one or more index managers ("IM") 22.

By way of a system overview, video clips are stored primarily on extended SRUs 26, and are tracked and distributed by the IMs 22. A user obtains videos of interest by communicating with a primary index manager ("PIM") 22 via a local SRU 18. The PIM 22 locates the requested video clips and creates a DSI 30 to direct the efficient download of the video clips to the user terminal 14. The connections between terminal 14 and

the local SRU 18 can be within the same computer, or between two or more computers located within a building, which are linked together on a local area network.

Kenner et al. do not teach or suggest "means for communicating to [a] client the identity of a node server having ... specified content stored thereon, thereby enabling the client to request transmission of the specified content from the node server," as recited in Claim 1. Rather, Kenner et al. teach that an entity (PIM 22) to which a user terminal (analogous to the "client" in Claim 1) communicates a request for a video (content) creates another entity (DSI 30) which requests transmission of video clips of the video to the user terminal.

An architecture for effecting the provision of content over a network as in Claim 1 provides advantages not provided by an architecture as taught by Kenner et al. For example, with an architecture as in Claim 1, the client can evaluate the capabilities of node server(s) to deliver content and request transmission of the content from node server(s) that can best provide the content to the client. For instance, as described in Applicant's specification at page 27, lines 16-35, the client can determine topological proximity of node server(s), evaluate the bandwidth and/or latency performance of node server(s), consider other scheduled content delivery by node server(s), and/or analyze (e.g., trend analysis) operation of node server(s), then select node server(s) for delivery of content to the client based on one or more of those evaluations.

Kenner et al. also do not teach or suggest that an owner of a node server can be offered an incentive as compensation for transmission of specified content to a client, as recited in Claim 1. This aspect of Applicant's invention is discussed, for example, at page 7, line 29 to page 8, line 7 of Applicant's specification:

In one particularly advantageous aspect of the invention, the owner of a site on the network can be provided with one or more incentives to make that network site a node server. Such incentives can include, for example, access to premium content from the core server (or other content providing site), access to free content from a content providing site (e.g., a free movie, free software, a free software upgrade), access to content that has been modified in a desirable way (e.g., content without advertising), loyalty program credits (e.g., frequent flyer miles), cash, or some combination of such incentives. However, as can be readily understood, the invention contemplates the use of any incentive or combination of incentives to induce a network site owner to allow their site to be used as a node server.

In the Office Action it is contended that this limitation of Claim 1 is taught at column 4, lines 7-34 and column 19, lines 8-37 of the Kenner et al. patent. However, that is not the case. The Kenner et al. patent teaches, at column 4, lines 7-34:

In one embodiment of the invention, the user, a real estate agent, has the capability of receiving up-to-date audio-visual information about a listed property. Presently, a real estate agent spends hours researching relevant aspects of available property, to include, inspecting the property, taking photographs of the property, and accumulating information about the property. In fact, the typical agent sees less than 50 percent of the new homes listed because of time constraints. Additional time and effort is spent ascertaining the prospective buyer's desires, introducing the buyer to the range of communities available within a chosen region, researching properties that the potential buyer may be interested in, and then showing these properties to the potential buyer.

According to the invention, a realtor's time will be more effectively used on activities directly related to selling property, and not on time intensive, activities necessary to stay abreast with market conditions. For example, by being able to view the property on a video terminal the realtor will reduce significantly the time spent researching potential properties. The time spent visiting properties with the potential buyer is likewise reduced by being able to introduce the property to the buyer via the video clip. This allows the realtor to devote more time to closings and other administrative duties associated with selling the property. Also, having the video retrieval capability allows the realtor to constantly refresh the customer's memory without having to revisit the property.

As can be seen, that section of the Kenner et al. patent does not discuss the provision of an incentive to a network site owner to allow their site to be used as a node server. Kenner et al. do not teach or suggest that a real estate agent, the agent's client, or the owner of a property being reviewed by the agent and/or client is an owner of a network site that can be incentivized to allow their network site to be used as a node server. The Kenner et al. patent further teaches, at column 19, lines 8-37:

Another application of the invention is directed towards providing online drug prescription information to physicians. Traditionally, pharmaceutical companies have utilized very expensive detail forces to physically meet with physicians to educate them about proprietary medications. However, recently, with the tremendous downward pressure on prescription pricing, the rapidly rising costs of drug discovery and development, the speed of reverse engineering by competitors and the more liberal generic drug approval policy, drug companies can no longer afford a full detail force to market their proprietary drugs. At present, high quality video cassettes are produced about the drug, and are sent directly to the physician in an attempt to supplement the sales force.

One embodiment of the invention provides ready access to audio-visual information about various drugs available to the physician. As with the real estate

application, a third party text database may be used, for example, an on-line version of the "Physicians Desk Reference." The physician may simply search through the on-line database and select a list of drugs that the physician would like to view on video. The system will search for, locate, and download the requested audio-visual information. The drug videos may serve a variety of functions. For example, the physician may use this audio-visual information to learn about new drugs, or simply to refresh or update their knowledge about existing drugs. Also, drug companies may place advertisements about promotional drugs on the video clips for use by the physician.

As can be seen, that section of the Kenner et al. patent also does not discuss the provision of an incentive to a network site owner to allow their site to be used as a node server. Kenner et al. do not teach or suggest that a physician, drug company, or owner of a third party text database (e.g., on-line version of the "Physicians Desk Reference") is an owner of a network site that can be incentivized to allow their network site to be used as a node server.

In view of the foregoing, Claim 1 is allowable over the teaching of Kenner et al. Claims 2-20, 22-25 and 27-34 each depend, either directly or indirectly, on Claim 1 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 35, the Office Action stated:

Kenner teaches apparatus for effecting the provision of content over a network, comprising:

means for receiving a request for content from a client (- requesting and retrieving video clips by the user at the user multimedia terminal) [see Abstract and Col. 4, Lines 43-64]; and

means for determining the location of the client within the network, means for identifying the location of a plurality of node servers within the network that have at least part of the requested content stored thereon, means for selecting from the plurality of node servers

one or more candidate node servers that are determined to be topologically proximate to the client, and means for communicating the identity of the candidate node servers to the client to enable the client to request transmission of the requested content via the network from one or more of the candidate node servers (- determining the closest server containing the request video clips and geographical distribution) [see Fig. 4 and Abstract and Col. 5, Lines 39-64 and Col. 16, Lines 14-61 and Col. 23, Lines 3-65].

Claim 35 recites (emphasis added):

Apparatus for effecting the provision of content over a network, comprising:
 means for receiving a request for content from a client;
 means for determining the location of the client within the network;
 means for identifying the location of a plurality of node servers within the network that have at least part of the requested content stored thereon;
 means for selecting from the plurality of node servers one or more candidate node servers that are determined to be topologically proximate to the client; and
 means for communicating the identity of the candidate node servers to the client to enable the client to request transmission of the requested content via the network from one or more of the candidate node servers.

As discussed above with respect to Claim 1, Kenner et al. do not teach or suggest "means for communicating the identity of ... candidate node servers to [a] client to enable the client to request transmission of ... requested content via [a] network from one or more of the candidate node servers," as recited in Claim 35. In view of the foregoing, Claim 35 is allowable over the teaching of Kenner et al. Claims 36-51 each depend, either directly or indirectly, on Claim 35 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 52, the Office Action stated:

Kenner teaches apparatus for effecting the provision of content over a network, comprising:

means for identifying which of a plurality of sets of content or parts of the plurality of sets of content are stored by each of a plurality of node servers that are part of the network, wherein at least one of the plurality of sets of content or parts of the plurality of sets of content is stored on redundant node servers (= locating audio/video content on servers to transmit to the users) [see Fig. 4 and Abstract and Col. 5, Lines 16-64 and Col. 16, Lines 14-61 and Col. 23, Lines 3-65];

means for receiving a request from a client that is part of the network for transmission of a set of content to the client, wherein at least part of the requested set of content is stored on redundant node servers (= requesting and retrieving video clips by the user at the user multimedia terminal) [see Abstract and Col. 4, Lines 43-64];

means for selecting from the plurality of node servers one or more candidate node servers that have stored thereon at least part of the requested set of content, and means for communicating the identity of the candidate node servers to the client to enable the client to request transmission of the requested content via the network from one or more of the candidate node servers (= communicating the user to the servers for requesting contents) [see Fig. 4 and Col. 23, Lines 3-65].

Claim 52 recites (emphasis added):

Apparatus for effecting the provision of content over a network, comprising:

means for identifying which of a plurality of sets of content or parts of the plurality of sets of content are stored by each of a plurality of node servers that are part of the network, wherein at least one of the plurality of sets of content or parts of the plurality of sets of content is stored on redundant node servers;

means for receiving a request from a client that is part of the network for transmission of a set of content to the client, wherein at least part of the requested set of content is stored on redundant node servers;

means for selecting from the plurality of node servers one or more candidate node servers

that have stored thereon at least part of the requested set of content; and
means for communicating the identity of the candidate node servers to the client to enable the client to request transmission of the requested content via the network from one or more of the candidate node servers.

As discussed above with respect to Claim 1, Kenner et al. do not teach or suggest "means for communicating the identity of ... candidate node servers to [a] client to enable the client to request transmission of ... requested content via [a] network from one or more of the candidate node servers," as recited in Claim 52. In view of the foregoing, Claim 52 is allowable over the teaching of Kenner et al. Claims 53-68 each depend, either directly or indirectly, on Claim 52 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 69, the Office Action stated that "Claim 69 is rejected under the same rationale set forth above to claim 52."

Claim 69 recites (emphasis added):

Apparatus for effecting the provision of content over a television network, comprising:
 means for identifying which of a plurality of sets of content or parts of the plurality of sets of content are stored by each of a plurality of node server television set-top boxes that are part of the network;
 means for receiving a request from a client television set-top box that is part of the network for transmission of a set of content to the client television set-top box, wherein at least part of the requested set of content is stored on one or more node server television set-top boxes;
 means for selecting from the one or more node server television set-top boxes one or more candidate node server television set-top boxes;
 and
means for communicating the identity of the candidate node server television set-top boxes to

the client television set-top box to enable the client television set-top box to request transmission of the requested content via the network from one or more of the candidate node server television set-top boxes.

As discussed above with respect to Claim 1, Kenner et al. do not teach or suggest "means for communicating the identity of ... candidate node server television set-top boxes to [a] client television set-top box to enable the client television set-top box to request transmission of ... requested content via [a] network from one or more of the candidate node server television set-top boxes," as recited in Claim 69. In view of the foregoing, Claim 69 is allowable over the teaching of Kenner et al. Claims 70-76 each depend, either directly or indirectly, on Claim 69 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 77, the Office Action stated that "Claim 77 is rejected under the same rationale set forth above to claim 1." Claim 77 is allowable over the teaching of Kenner et al. for the same reasons as given above with respect to Claim 1. Claims 78-94 each depend, either directly or indirectly, on Claim 77 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 95, the Office Action stated that "Claim 95 is rejected under the same rationale set forth above to claim 35." Claim 95 is allowable over the teaching of Kenner et al. for the same reasons as given above with respect to Claim 35. Claims 96-107 each depend, either directly or indirectly, on Claim 95 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 108, the Office Action stated that "Claim 108 is rejected under the same rationale set forth above to claim 52." Claim 108 is allowable over the teaching of Kenner et al. for the same reasons as given above with respect to Claim 52. Claims 109-120 each depend, either directly or indirectly, on Claim 108 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 121, the Office Action stated that "Claim 121 is rejected under the same rationale set forth above to claim 1." Claim 121 is allowable over the teaching of Kenner et al. for the same reasons as given above with respect to Claim 1.

Regarding Claim 122, the Office Action stated that "Claim 122 is rejected under the same rationale set forth above to claim 35." Claim 122 is allowable over the teaching of Kenner et al. for the same reasons as given above with respect to Claim 35.

Regarding Claim 123, the Office Action stated that "Claim 123 is rejected under the same rationale set forth above to claim 52." Claim 123 is allowable over the teaching of Kenner et al. for the same reasons as given above with respect to Claim 52.

In view of the foregoing, it is requested that the rejection of Claims 1-20, 22-25, 27-33 and 35-123 under 35 U.S.C. § 102 be withdrawn.

Rejection of Claims under 35 U.S.C. § 103

In the Office Action, Claims 21, 26 and 34 were rejected under 35 U.S.C. § 103 as unpatentable over Kenner et al. (U.S. Patent No. 5,956,716).

Claims 21, 26 and 34 each depend, either directly or indirectly, on Claim 1 and are therefore allowable over the teaching of Kenner et al. for at least the reasons given above with respect to Claim 1.

In view of the foregoing, it is requested that the rejection of Claims 21, 26 and 34 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Claims 1-123 were pending and were rejected. In view of the foregoing, it is requested that Claims 1-123 be allowed. If the Examiner wants to discuss any aspect of this application, the Examiner is invited to telephone Applicant's undersigned attorney at (408) 945-9912.

I hereby certify that this correspondence is being Respectfully submitted, transmitted via facsimile to the U.S. Patent and Trademark Office, Group Art Unit 2155, facsimile number (571) 273 8300, on March 2, 2006.

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